



UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO. FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/539,213	01/17/2006	Jonathan Lightner	6616-71292-08	5168	
57622 KLADOUIST	7590 01/03/2008 SPADKMAN IIP	EXAMINER			
KLARQUIST SPARKMAN, LLP 121 S.W. SALMON STREET SUITE 1600 PORTLAND, OR 97204			MCELWAIN, E	MCELWAIN, ELIZABETH F	
			ART UNIT	PAPER NUMBER	
,			1638		
			MAIL DATE	DELIVERY MODE	
			01/03/2008	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Applicat	ion No.	Applicant(s)				
		10/539,2	213	LIGHTNER ET AL.				
Office Action Summary			er	Art Unit				
			r F. McElwain	1638				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply								
WHIC - Exte after - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR CHEVER IS LONGER, FROM THE MAILI nsions of time may be available under the provisions of 37 SIX (6) MONTHS from the mailing date of this communical period for reply is specified above, the maximum statutory are to reply within the set or extended period for reply will, be the process of the property of t	NG DATE OF T CFR 1.136(a). In no e tion. y period will apply and by statute, cause the ap	'HIS COMMUNICATIO vent, however, may a reply be ti will expire SIX (6) MONTHS fron polication to become ABANDONI	N. mely filed n the mailing date of this con ED (35 U.S.C. § 133).				
Status								
1)[]	Responsive to communication(s) filed or	ı .						
	This action is FINAL . 2b)⊠ This action is non-final.							
3)	Since this application is in condition for a			osecution as to the	merits is			
	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.							
Dispositi	on of Claims							
4)⊠	4)⊠ Claim(s) <u>1-11</u> is/are pending in the application.							
	4a) Of the above claim(s) is/are withdrawn from consideration.							
5)□	5) Claim(s) is/are allowed.							
	Claim(s) is/are rejected.							
7)	Claim(s) is/are objected to.							
8)⊠	Claim(s) <u>1-11</u> are subject to restriction a	nd/or election re	quirement.					
Applicati	on Papers							
9)[The specification is objected to by the Ex	aminer.						
10)	The drawing(s) filed on is/are: a)[accepted or b) objected to by the	Examiner.				
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).								
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).								
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.								
Priority u	nder 35 U.S.C. § 119			,				
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:								
,	1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No							
	3. Copies of the certified copies of the				tage			
	application from the International E				J			
* See the attached detailed Office action for a list of the certified copies not received.								
				•				
Attachment	(c)							
_	e of References Cited (PTO-892)		4) Intensions Summer	(PTO 412)				
1) Unotice of References Cited (PTO-892) 2) Interview Summary (PTO-413) 2) Paper No(s)/Mail Date								
3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 5) Notice of Informal Patent Application 6) Other:								
Paper No(s)/Mail Date 6) Other:								

10/539,213 Art Unit: 1638

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-8, drawn to a transgenic plant transformed with a HIO30 gene encoding SEQ ID NO: 2 and method of transforming a plant with said sequence.

Group II, claim(s) 9-11, drawn to a method of generating a plant having a high oil phenotype by identifying a plant having an HIO30 allele that results in increased oil.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The invention of Group I requires an isolated SEQ ID NO: 2 for transformation of a plant. However, the invention of Group II does not require SEQ ID NO: 2 and does not require a transformed plant. Instead Group II is drawn to screening of plants for a high oil phenotype.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

10/539,213 Art Unit: 1638

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth F. McElwain whose telephone number is (571) 272-0802. The examiner can normally be reached on increased flex time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on 571-272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Elizabeth F. McElwain Ph.D. Level Examiner Art Unit 1638

EFM